

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 9/11/09

UNITED STATES,

Plaintiff,

03 Cr. 1305 (JGK)

- against -

MEMORANDUM OPINION AND  
ORDER

JAMIE VENDIVEL,

Defendant.

JOHN G. KOELTL, District Judge:

The Court has received the attached pro se defendant's Application for Counsel on his Motion for Resentencing pursuant to 18 U.S.C. 3582. The petitioner's motion to appoint counsel is **denied without prejudice to renewal** for failure to make the required showing at this time.

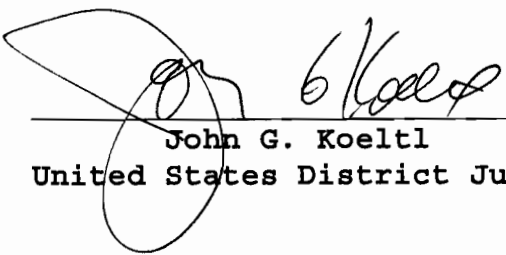
The Court of Appeals for the Second Circuit has articulated factors that to guide the Court's discretion in appointing counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. These standards are useful in determining whether the interests of justice require appointing counsel in this case. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986); Jackson v. Moscicki, No. 99 Civ. 2427, 2000 WL 511642, at \*4 (S.D.N.Y. Apr. 27, 2000). For the Court to order the appointment of counsel, the petitioner must, as a threshold matter, demonstrate that his claim has substance or a likelihood of success on the merits. See Hodge, 802 F.2d at 61-62. Only

then can the Court consider the other factors appropriate to determination of whether counsel should be appointed:

"plaintiff's ability to obtain representation independently, and his ability to handle the case without assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v. A. Sargenti Co., 877 F.2d 170, 172 (2d Cir. 1989). The petitioner has not yet made such a showing.

SO ORDERED.

Dated: New York, New York  
September 11, 2009



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John G. Koeltl  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
UNITED STATES OF AMERICA

DOCKET NUMBER: 06-0679-CR  
RELATED FR: USDC 03-CR-1305


CHAMBERS OF THE HONORABLE JOHN G. KOELTL  
UNITED STATES JUDGE  
SOUTHERN DISTRICT OF NEW YORK

RE: UNITED STATES OF AMERICA VS. JAMIE VENDIVEL  
03-CR-1305-01 (JGK)

APPLICATION FOR COUNSEL ON MOTION FOR RESENTENCE  
PURSUANT TO 18 USC SEC. 3582

I JAMIE VENDIVEL, PETITIONER, FORMERLY REQUEST AND MOVES  
THIS COURT FOR APPOINTMENT OF COUNSEL AS PETITIONER IS UNTRAINED  
UNDER LAW, IS INDIGENT, AND REQUIRE THE ASSISTANCE OF A LEARNED  
COUNSEL TO PERFECT THE MOTION. FURTHER, IT IS REQUESTED THAT THE  
BRIEFING SCHEDULE ALSO BE AFFORDED TO THE PETITIONER.

UNDER THE PENALTY OF PERJURY AND THE LAWS OF THE UNITED STATES  
AND THE CONSTITUTION OF THE UNITED STATES, WITHOUT THE UNITED STATES, A  
PUBLIC FEDERAL GOVERNMENT CORPORATION, AND TO THE BEST OF MY  
KNOWLEDGE AND BELIEF THAT THE AFOREGOING IS TRUE, CORRECT AND  
MATERIALLY CERTAIN, SO HELP ME GOD.

  
JAMIE VENDIVEL  
#51843-054

09-03-09  
DATE

PETITIONER: JAMIE RAMOS VENDOR  
% #51843-054, UNITED STATES PENITENTIARY  
POST OFFICE BOX 2068  
INEZ, KY 41224

TO: OFFICE OF COURT CLERK  
MOYNIHAN UNITED STATES COURT HOUSE  
500 PEARL ST.  
NEW YORK, NY 10007-1312

RE: #06-0679 CR FROM USDC 03-CR-1305